UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,030	05/07/2001	MIchael Cristofalo	5216.00	2495

22204　　　　7590　　　01/09/2007 NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128		

EXAMINER
BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 November 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-8,12-70 and 72-79* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-8,12-70,72-79* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 11/30/2006 has been entered.

Remark

2.   Claims 2-3, 9-11, and 71 have been previously canceled; and pending claims 1, 4-8, 12-

70, and 72-79 are for reconsideration.

Response to Arguments

3.   Applicant's arguments with respect to claims 1, 4-8, 12-70, and 72-79 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

5.   Claims 1, 4-8, 12-70, and 72-79 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gershman et al. (U.S. Patent No. 6,401,085 B1) in view of Egner et al. (U.S.

Patent No. 6,931,254 B1).

Regarding claim 1, Gershman discloses "a method for providing targeted programming to

a user outside of the user's home, the method comprising: receiving a user identification

comprising an identifier corresponding to an account number used in a transaction; selecting a

program based at least in part on the user identification; and providing the program for

presentation to a user outside of the user's home" (Fig. 10B and col. 40/lines 28-54 for steps of

providing targeted program to the user by using the user's profile, and as shown in Fig. 20, the

user identification is required to access to the server system, as also illustrated in Fig. 17, and the

requested content is delivered to the user remotely to a mobile device of the user, which is

outside of the user's home, refer to col. 3/lines 14-28; and col. 44/lines 15-37 for an identifier of

concerned). In addition, Gershman teaches the user profile is obtained associated with the user

identification (Fig. 13, col. 41/line 51 to col. 42/line 3).

Gershman does not further show the (amended) steps of "receiving reception site

information to identify a user action and a site at which the user is taking place; receiving a user

profile based upon the user ID, the user profile including information characteristic of the user;

selecting a targeted program based on the reception site information and the user profile; and

providing the target program..."; however, Egner teaches the exact same technique as mobile

user can receive targeted program based on their user profile and their (reception) location where

at which the site the user is taking place (Fig. 1 and col. 2/line 39 to col. 3/line 47; and further

details on the procedure in Fig. 7 and col. 8/lines 1-40; and col. 7/lines 22-50 for user profile

information inclduign characteristic of the user addressed). Therefore, it would have been

obvious to one of ordinary skill in the art to modify Gershman's system with the teaching of

delivering targeted program to the mobile user (outside of the user's home) based on the user

profile, user identification, and the location where the user takes places in order to provide

instantaneously the user a dynamic and interactive information service which based on the user

profile, user's ID, and the location where the user is at.

(Claims 2 and 3 have been cancelled).

As for claim 4, Gershman discloses the program is selected based on the user profile

which is obtained from a database (Figs. 10B, 17 & 18, and col. 43/line 45 to col. 44/line 13 for

personal profile is used for personalized services to the user).

As for claim 5 and 16, Gershman meets these limitation as user profile and the program is

obtained from at least memory or data storage (Figs. 17 & 18).

As for claim 6 and 7, Gershman further discloses a controller to perform one or more

functions as disclosed above in receiving, obtaining the user profile and selecting, providing the

program (Fig. 25 and col. 47/lines 42-51 for the intelligent agent acts as a controller to operform

these tasks) and the user identification is associate with a single user (Fig. 20, each user has a

personal password to sign in and access to the system network).

As for claim 8, Gershman further discloses the user identification is associated with a

group including the user (col. 44/lines 14-37).

(Claims 9-11 were canceled).

As for claim 12 and 13, Gershman discloses the user has user interface device for receiving the user identification (as shown in Fig. 17 for a number of user interface devices, and the program is delivered to the presentation device (as shown in Fig. 1, item 138 and as illustrated in Fig. 1A with a portable and wireless PDA device).

As for claim 14, Gershman discloses the program is transmitted over at least one from the selected medium as of the list (Fig. 17 & 24 for the Internet).

As for claim 15, Gershman further discloses this limitation as the user requests for the content or program, the query is searched and matched in patterns, which is regarding as segments (refer to col. 16/line 10-65 & col. 77/claim 3 for the code segment in having query for the user's request).

As for claims 17 and 18, Gershman discloses "generating the program" and "the program is generated in real-time" (col. 1/line 49 to col. 2/line 38 & Fig. 26 for the wireless PDA device can access directly to a host computer for interactively request and obtain program or any other information instantly, and col. 10/lines 10-19 for real-time stock information can be obtained).

As for claim 19, Gershman discloses "the presentation device including a user identification component and an output component", i.e., user inputs for identification via user inputs or sensors on the wireless device, and an output component as the display screen (Fig. 26, and col. 60/line 50 to col. 61/line 21).

As for claim 20, Gershman discloses "wherein the user identification and the user profile is received from a user identification device" (the user can either uses a PDA for obtaining/accessing the user profile via a profile gateway server, Fig. 17 and col. 43/line 45 to col. 44/line 13 and/or he/she uses a smart card containing user profile information as the user identification device, refer to col. 64/lines 14-36).

As for claim 21, Gershman meets wherein the user identification devices includes one or more devices selected from the group list (Fig. 17 & 26, and col. 43/line 45 to col. 44/line 37 for PDA, smart card, and col. 49/line 18-22 for voice recognition, and col. 4/lines 56-62 for a touch screen).

As for claims 22 and 23, Gershman shows wherein the program is provided to a user via at least one presentation device selected from the group list, and the device is a standalone unit (Fig. 17 for consumer access devices for individual use as a stand-alone unit).

As for claim 24, Gershman teaches to provide the presentation device including communication hardware and software to allow the user to connect a user device for receiving the programming (refer to Figs. 17-27 for flowcharts of hardware and software of the present invention of Gershman).

As for claims 25-27, Gershman teaches the program is provided to the user via a plurality of medium, either wireless or wired, analog or digital, internet, telephone, television, computer, PDA etc. and programming can be one form from the group list such as news, video, audio, entertainment, information etc. and from one of selected formats, refer to multimedia services (see Fig. 17, and col. 43/line 45 to col. 45/line 22 and col. 60/line 50 to col. 65/line 29 for a plurality of multimedia services).

(Claim 71 was canceled).

Regarding claims 28-70, and 72-79, these claims with same limitations are rejected for

the reasons given in the scope of claims 1, 4-8 and 12-27 as disclosed in details above (to avoid

unnecessary repetitions), not limited to the cited paragraphs from the examiner but also to the

entire disclosure of Gershman et al and Egner.

Conclusion

6.   **Any response to this action should be mailed to:**

        Commissioner of Patents and Trademarks

        Washington, D.C. 20231

        or faxed to PTO New Central Fax number:

        (571) 273-8300, (for Technology Center 2600 only)

        Hand deliveries must be made to Customer Service Window,
        Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

7.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Krista Kieu-Oanh Bui whose telephone number is (571) 272-7291. The

examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W. Miller, can be reached at (571) 272-7353.

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Division or Art Unit 2623.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kieu-Oanh Bui
Primary Examiner
Art Unit 2623

KB
Jan. 4, 2007